

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

REX CHAPPELL,

Plaintiff,

v.

C.K. PLILER, et al.,

Defendants.

No. 2:04-cv-01183 TLN-DB

ORDER

Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On January 24, 2017, the magistrate judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within fourteen days. Neither party has filed objections to the findings and recommendations.

The court has reviewed the file and finds the findings and recommendations to be supported by the record and by the magistrate judge's analysis.

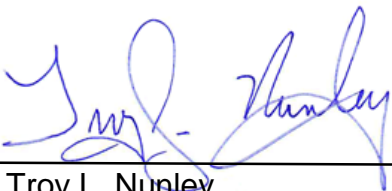
Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations filed January 24, 2017 (ECF No. 102) are adopted in full;

2. Defendants' October 5, 2015 motion for summary judgment (ECF No. 88) is granted in part and denied in part as follows:

- a. Defendants' motion for summary judgment on Plaintiff's Eighth Amendment claims regarding the denial of outdoor exercise and adequate food is denied;
- b. Defendants' motion for summary judgment on Plaintiff's Eighth Amendment claim for denial of personal hygiene items and First Amendment claims is granted;
- c. Defendants' motion for summary judgment with respect to the defense of qualified immunity is denied;
- d. Plaintiff's Fourteenth Amendment equal protection and due process claims, his state law claims brought under California Penal Code § 825 and California Code of Regulations Title 15, § 3157(a)-(c), and Plaintiff's Eighth Amendment claim challenging the banning of tobacco from CSP-Sacramento are dismissed for failure to state a cognizable claim; and
- e. The case shall proceed solely on Plaintiff's Eighth Amendment claims regarding denial of outdoor exercise and adequate food.

Dated: February 28, 2017



Troy L. Nunley
United States District Judge